

Indiana Partnership News Flash

Letter from the Director

Spring is in the air and buzzing with Health Care Reform! The legislation has been passed, signed, and is still being debated. A good analogy would be to compare health care reform to building a house – the structure is up, interior rooms framed, and with the detail work yet to be completed – all subject to possible change! Long term care will definitely be impacted directly and indirectly. The CLASS Act, part of the reform bill, is a new government cash program to facilitate community living services and supports. The recent debate on increasing health insurance rates and possible Federal review of the rate review process will also include long term care premiums. The Reform Act significantly affects states' Medicaid programs – broader eligibility, shift toward community services, additional strain on Medicaid budgets, etc. As more individuals become eligible for health care under Medicaid, we could see a monetary shift from long term care services.

In this 1st Quarter 2010 newsletter, the spotlight topic is an overview of the CLASS Act provisions. Timetables vary for the effective dates of the health care provisions and certainly the majority of the details for implementation have yet to be finalized.

The two major pieces of legislative reform are – The Patient Protection and Affordable Care Act (aka PPACA) HR 3590; Health Care and Education Reconciliation Act of 2010, HR 4872 (aka PPACA fixer bill). The Community Living Assistance Services and Supports Act (the CLASS Act) is part of PPACA under Title VIII, Section 8002.

The IDOI website recently underwent a major revamping. We hope it is more user-friendly and allows a user to click directly on a specific area of interest. Also, a valuable tool for agents, **Producer Edge**, has been added. This is a personalized portal allowing a producer to apply for a license in all 50 states, verify CE credits, check on license renewal,

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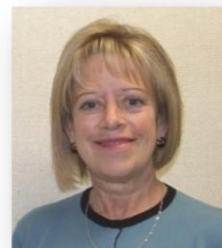
IN Partnership Office Contact
Info:

1-866-234-4582

www.longtermcareinsurance.in.gov

etc. Check it out on the DOI website,
www.in.gov/idoi.

We will keep you posted as the CLASS Act details are finalized and health care reform progresses.



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Partnership Office Update

❖ Indiana State Tax Deduction

The premiums paid for an Indiana Partnership policy can be taken as a deduction on the State tax return. The deduction is listed on Schedule 2 under "Other Deductions". The return should include the name of the deduction "Indiana LTC Partnership" with Code 608. If the return is a joint return, the deduction amount should be the **total** premium paid in the calendar year for both policies. There should only be one amount listed for Code 608.

The Department of Revenue may ask for verification on this deduction. They are looking for the boxed language on the first page of the policy identifying the policy as a Partnership policy. The DOR may also ask for verification of premiums paid for the policy.

THIS POLICY {CERTIFICATE} QUALIFIES UNDER THE INDIANA LONG TERM CARE INSURANCE PROGRAM FOR MEDICAID ASSET PROTECTION. THIS POLICY {CERTIFICATE} MAY PROVIDE BENEFITS IN EXCESS OF THE ASSET PROTECTION PROVIDED IN THE INDIANA LONG TERM CARE PROGRAM.

Keep in mind that a tax "deduction" is different than a tax "credit". A deduction reduces **taxable income** and a credit reduces **taxes owed**.

A self-employed Partnership policyholder can also take a State tax deduction. The Indiana deduction is the difference in premium between the amount claimed on the Federal return and the premium paid.

❖ LTC Awareness Letter

Our LTC letter education campaign which began in September 2009 is continuing and we are very pleased with the results. The purpose of the letter from the State is to encourage Hoosiers to become more knowledgeable about long term care – the impact of needing long term care services, the differences between long term care and health care, and the financial burden of paying for long term care.

Many people mistakenly believe that long term care services are covered by health insurance or Medicare. Too many times, families are unprepared when these services are needed and may become financially devastated paying for services.

We are hoping this letter will spark an interest in planning for the future and can provide a resource for options available to Hoosiers, if they choose to respond.
www.longtermcareinsurance.in.gov.

❖ Medicaid & Annuities

A provision under the Deficit Reduction Act requires the State of Indiana to be named as a beneficiary on an annuity. **This only applies at the time of Medicaid application.** An individual purchasing an annuity is **not** required to name the state as a beneficiary at time of purchase.

❖ Bulletin #177 Rebating and Referral Commissions

The Department of Insurance released this bulletin on April 16, 2010. (Bulletin is attached at the end of the Newsletter.)

❖ LTC CE Requirements

An Indiana resident agent is required to take the 8 hour basic LTC CE class and 5 hours of renewal LTC CE every 2 years in order to be certified to sell long term care.

The 5 hours renewal can be any combination of hours. The 2 year time period begins from the date the 8 hour class is taken and does not follow the renewal date of the actual license. If the renewal hours are not taken every 2 years, the 8 hour class must be retaken. In addition, the 7 hour Indiana Partnership specific CE class is required to sell Partnership. This class is only available as an in-classroom setting. The National Partnership CE class does not meet Indiana's Partnership LTC CE requirement, but does qualify for general LTC CE credit.

Non-resident agents must meet their home state requirements to sell long term care in Indiana. The 8/5 hour requirements are waived for non-resident agents, but the 7 hour CE Indiana Partnership specific class is mandatory if selling Indiana Partnership policies.

The Department of Insurance does not maintain copies of CE certificates. This information can be obtained from either the CE provider, the SIRCON database at, www.sircon.com (for CE taken after 1-1-2007) or through our new Producer Edge portal.

❖ **Veterans Aid and Attendance Benefit**

Veterans and surviving spouses of veterans needing in-home care or nursing home care may qualify for assistance under this benefit provided by the Veterans Administration. This is an underused pension benefit that could be financially beneficial for a qualified veteran. More information is available on the Department of Veterans Affairs website.

NATIONAL NEWS

Partnership Expansion -Thirty-nine (39) states are now Partnership states or in Partnership development. 80% of the U.S. population in the middle-middle segment (ages 45-65, \$45,000-\$75,000 annual income), now have access to Partnership policies. This is the segment of the population most likely at risk for financial impoverishment due to long term care needs.

Policyholders who reside in states participating in the National Reciprocity Compact have portability with asset protection. A Partnership policyholder may move to another state and may need to apply to that State's Medicaid program. At the time of Medicaid eligibility, if both states have reciprocity with each other, the Partnership policyholder would have **dollar for dollar** asset protection in that state. To receive total asset protection, an Indiana Partnership policyholder would have to move back to Indiana.

Carrier News – CUNA Mutual launched their Partnership policy on April 1, 2010. Welcome to our newest Partnership Partner!

National States Insurance Company was recently placed into rehabilitation and turned over to the Missouri Department of Insurance regulators.

Pension Protection Act of 2006 -

Effective January 1, 2010, combination annuity/long term care policies had a favorable tax advantage. Federal tax law will enable premiums for a long term care policy to be paid pre-tax if they are paid from the account value of the annuity or from the cash value of a life/LTC combo product. Also with the annuity/LTC combo, the gain will come out tax-free if it is used to pay for qualified long term care expenses.

Topic Spotlight

“THE CLASS ACT”

The Patient Protection and Affordable Care Act signed on March 23, 2010 includes a program providing a modest cash benefit for long term care services. The Community Living Assistance Services and Supports Act (aka the CLASS Act) is Title VIII, Section 8002 of the PPACA. All of the details have not been developed for the program as of this date. Below is a high level overview of the provisions which could be subject to change and further development.

What is the CLASS Act?

A new voluntary government program that pays a modest cash benefit for long term care needs.

Who has oversight over the Program?

The Department of Health and Human Services (HHS) will develop the regulations and has oversight of the program. A CLASS Advisory Council will be appointed by the President advising the Secretary of HHS on matters of general policy in the administration of CLASS. The Council will consist of 15 members appointed for a term of 3 years, but not more than 2 consecutive terms.

A CLASS Independence Fund will be established as a trust fund to hold the premiums collected and interest income earned from the Fund. A Board of Trustees will be appointed to oversee the Fund and report to Congress. Board members will include the Secretary of the Treasury, Secretary of Labor, Secretary of HHS, and 2 members of the public (from different parties) nominated by the President for a term of 4 years.

When will the program begin?

By October 1, 2012, HHS will select a benefit plan design and final details. The plan will be published followed by a period for public comment. The first enrollment period could begin in early 2013.

Who is eligible to participate?

CLASS is intended to be a voluntary plan offered by the employer for employees who are actively employed. The employee is responsible for paying the premiums which are deducted by payroll deduction. Provisions will be in place for enrollment for self-employed individuals and employed persons not having access to CLASS through an

employer who declined to offer the program. The program is a “guaranteed health issue” basis – medical conditions and status is not a factor for enrollment. The minimum participation age is 18.

What is the “opt-out” provision?

The program has been set up to be by “opt-out” participation. Employees must decline to “opt out” or will be considered to be automatically enrolled. Annual enrollment and disenrollment periods will be established. Premium penalties will apply for reenrollment after a disenrollment.

What benefits will be provided?

At least 3 and up to 6 cash benefit plans could be offered. The cash benefit amount provides an eligible beneficiary with no less than an **average** of \$50 per day with no lifetime limit. The exact amounts have yet to be determined. The benefit shall be used to purchase nonmedical services and supports to maintain independence at home or in another residential setting. Benefits can be paid on a daily or weekly basis. A beneficiary can elect to defer payment of their benefit from month to month, but any deferred amount would not roll over year to year. Accrued benefits could be recouped in the event of the death of a beneficiary or failure to receive a lump sum benefit before the end of a 12 month period during which benefits accrued.

How do you qualify for the cash benefit?

To be an eligible CLASS beneficiary – You must have

1. Paid premiums in the program for at least 5 years (60 months).
2. Earned at least 3 calendar years of wages or self-employment income as credited by Social Security during the first 60 months for which premiums were paid.
3. Met the criteria of 2 or 3 ADL’s or require substantial supervision due to a Cognitive impairment.

What are the premiums for the CLASS Act?

The final premium has yet to be determined. The premiums are to be set at a level based on an actuarial analysis that ensures solvency through a 75 year period. Special premium caps will be allowed for participants with income less than the federal poverty level and employed full-time students under age 22. Establishing an actuarially sound premium amount has been one of the most controversial aspects of the Act.

Can the premiums increase?

Yes. This program is a cash benefit program and not an insurance contract. It does not contain the guaranteed renewable provision found in a TQ LTC contract. The program can only be supported by premiums paid and not by tax dollars. If enrollment trends and expected future benefit claims on the Fund are not actuarially sound in regards to their projections, the program premiums must be adjusted or adjustments made by other means to remain financially solvent.

Issues to Consider

The CLASS Act is considered a supplement to a traditional long term care policy and not a replacement. With the “guarantee health issue” element, individuals unable to qualify in the private market may find the CLASS Act an attractive option. Since this is a cash benefit government program, it does not provide provisions found in an insurance contract, e.g. waiver of premium, guaranteed renewable, paid up coverage, etc. Primarily available through the worksite, the CLASS Act can provide an opportunity for discussion of LTC to a broader, younger audience.

The availability of the CLASS Act will create an awareness of the need for long term care and an opportunity to explore all options to address this future need.

Valuable Resource Information

As a LTC insurance professional, you can be an important resource for your clients and families. Below are helpful websites for long term care information.

Areas on Aging	www.in.gov/fssa/da/3478.htm
CMS Caregiver Publication	www.medicare.gov/publications/pubs/pdf/11035.pdf
Indiana Dept. of Health	www.in.gov/isdh/23260.htm
Indiana Department of Insurance	www.in.gov/idoi
Indiana LTC Insurance (Partnership) Program	www.longtermcareinsurance.in.gov
IN LTC Ombudsman	www.in.gov/fssa/da3474.htm
Partnership Expansion Map	http://www.dehpg.net/lhcpartnership/map.aspx
State Health Insurance Assistance Program (SHIP)	www.medicare.in.gov



REBATING AND REFERRAL FEES

This Bulletin is directed to all insurance producers, insurance companies, health maintenance organizations and other persons as defined by IC 27-4-1-2(a). This Bulletin is intended to clarify Indiana's insurance laws on rebating, commission splitting, and referral fees, which are found at IC 27-1-15.6-13, IC 27-1-20-30, IC 27-1-22-18 and IC 27-4-1-4(a)(8).

Title insurance producers, while subject to Indiana law, are also subject to the provisions of the federal Real Estate Settlement Procedures Act (RESPA). In cases where RESPA is more restrictive, the more restrictive law applies. Title insurance producers should also refer to IDOI Bulletin 158.

Rebating

IC 27-1-20-30, IC 27-1-22-18, and IC 27-4-1-4(a)(8) prohibit any person engaged in the business of insurance from paying, allowing, or giving any rebate, credit, reduction, discount, or abatement of any premium or commission to a consumer that is not specifically stated in the insurance policy or to the extent provided for in applicable filings. Gifts to a consumer of any value are prohibited if the gift is an inducement to, or conditioned upon, the purchase or renewal of insurance. If it is unrelated to the purchase or renewal of insurance, a small item with a fair market value of \$25 or less – such as a promotional handout, advertising product, or meal – may be given. For purposes of this Bulletin, the Department considers a small item provided with every quote to be unrelated to the purchase or renewal of insurance.

Contests or raffles in which a consumer receives a free chance to win a prize are acceptable as long as they are open to the public and there is no obligation for the consumer to purchase or renew insurance to enter, win, or claim the prize. Prizes are not limited to a value of twenty-five dollars (\$25); however, the value of the prize divided by the reasonably expected number of entrants must not exceed \$25 per entrant.

Insurance producers may donate earned commissions to charities as long as clients or prospective clients have no influence over which charity receives the donation, the donation is not in the client's name, and no client or prospective client becomes eligible for a tax benefit from the donation.

Reduced loan interest rates or fees, higher deposit interest rates, or other inducements offered to consumers by a financial institution to purchase insurance from an agency or company owned by or affiliated with the financial institution are prohibited.

Questions concerning the provision of certain services by producers, agencies, and insurance companies have arisen. The following non-exclusive list of services, if appropriate in scope, directly related to the insurance product being sold, or intended to reduce claims, and provided in

a fair and nondiscriminatory way, would generally not be prohibited by Indiana's anti-rebating statutes:

- Loss control; including wellness programs
- Claim filing assistance
- COBRA administration
- HIPAA compliance
- Risk management or analysis
- Regulatory and legislative updates
- Group policy administration
- Establishment and administration of employer-sponsored 125 plans, flexible spending accounts (FSAs), and health reimbursement accounts (HRAs)

The following non-exclusive list of services, if provided free or at a reduced cost, could be viewed by the Department as violations of Indiana's anti-rebating statutes provided the service is not specifically stated in the insurance policy or provided for in applicable filings:

- Human resource (personnel)
- Legal
- Payroll
- Referrals to third-party service providers that offer discounted rates contingent upon the purchase or renewal of insurance
- Tax preparation
- Accounting

Complaints concerning inducements and rebates are fact sensitive, and the Department will consider such cases on an individual basis. Furthermore, the Department reserves the right to disapprove policy filings containing services that are unrelated to the insurance product or are not intended to reduce claims.

Any producer, agency, company, or other person engaging in the aforementioned prohibited activities is subject to enforcement action under IC 27-1-15.6-12 and/or IC 27-4-1-6.

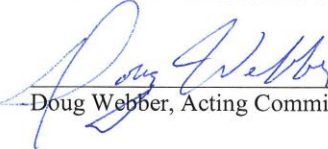
Referral Fees

Under IC 27-1-15.6-13, a licensed producer may share commissions with another licensed producer for selling, soliciting, or negotiating insurance. In the event only one of the producers has the proper qualification, a commission or referral fee can still be shared as long as the non-qualified producer did not sell, solicit, or negotiate the insurance being sold. In addition, a producer may pay a referral fee to a non-licensed person as long as that person does not sell,

solicit, or negotiate insurance. The terms “sell”, “solicit”, and “negotiate” are defined by IC 27-1-15.6-2. If a producer chooses to pay a referral fee to a non-licensed person, the payment may not be conditioned on the purchase of insurance nor may the purchase of insurance be a factor used in determining the amount of the referral fee.

Questions concerning this Bulletin should be directed to attorney Robert Hummel at (317) 232-5063 or rhummel@idoi.IN.gov.

INDIANA DEPARTMENT OF INSURANCE



Doug Webber, Acting Commissioner